

Nov 13, 2018

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

ODELL KINARD, JR.,

Defendant.

No. 2:17-CR-0101-WFN

ORDER

A post-trial motion hearing was held November 8, 2018. Defendant was present, in custody, and represented by Richard Wall; Assistant United States Attorney Timothy Ohms and intern Emily Sauvageau represented the Government.

The Court addressed Defendant's previous oral motion pursuant to Rule 29 to set aside the verdict on double jeopardy grounds as well as the Defendant's Motion for Judgment of Acquittal and/or New Trial. ECF No. 1104. Defendant argued that the jury lacked sufficient evidence to convict Defendant on any count. The Court denied Defendant's motions outlining the direct and circumstantial evidence supporting the jury's conclusions. The Court further noted that the charges in Count 2S were not precluded by double jeopardy because the elements between Count 2 and Count 2S were entirely different. In fact, the jury did not have to find that Defendant possessed the cocaine in the bedroom at in order to convict on Count 2S. The Court also noted that the length of the jury deliberations was adequate in light of the inter-related counts and the attentiveness of the jury.

The Court has reviewed the file and Motions and is fully informed. This Order is entered to memorialize and supplement the oral rulings of the Court. Accordingly,

IT IS ORDERED that:

1. Defendant's oral motion pursuant to Rule 29 on double jeopardy grounds, is **DENIED.**

2. Defendant's Motion for Judgment of Acquittal and/or New Trial, filed November 7, 2018, **ECF No. 1104**, is **DENIED**.

The District Court Executive is directed to file this Order and provide copies to counsel.

DATED this 13th day of November, 2018.

s/ Wm. Fremming Nielsen

WM. FREMMING NIELSEN

SENIOR UNITED STATES DISTRICT JUDGE

11-08-18